

DISCUSSION

Under Rule 4(m), when a plaintiff fails to serve a defendant within the 90-day period, the Court has two choices: either “dismiss the action without prejudice . . . or direct that service be effected within a specified time.” *Thompson v. Brown*, 91 F.3d 20, 21 (5th Cir. 1996). “The next portion of the rule qualifies the district court’s choices, making an extension of time mandatory when the plaintiff shows good cause.” *Id.* If good cause is present, the district court must extend time for service. *Thompson*, 91 F.3d at 21. If good cause does not exist, the court may, in its discretion, decide whether to dismiss the case without prejudice or extend time for service. *Id.* Thus, even when good cause is lacking, the Court must decide whether to exercise its discretion to extend the time for service.

The first inquiry is whether Plaintiff has established good cause for its failure to timely serve Defendant. The Court finds that good cause has been shown, which justifies an extension of time. Plaintiff attempted service at the registered address of an LLC in which Price was a member only to find that the registered address was closed. Docket no. 15 at 2. Plaintiff continued efforts to locate Price even when there was a possibility that the case would be stayed as a result of the bankruptcy proceeding. *Id.* Plaintiff conducted repeated web-based searches to find a valid address for Price and requested this information from Price’s co-defendant, John York. *Id.* at 2–3. Plaintiff includes the affidavits of two process servers, describing a handful of attempts to serve Price at different addresses and the difficulties that they encountered in locating a valid address for Price. Docket nos. 15-1, 15-2. In addition, Plaintiff has since succeeded in serving Price. Docket no. 16. All of these factors and efforts demonstrate good cause for Plaintiff’s failure to serve Price within the original 90-day time frame imposed by Rule 4(m).

CONCLUSION

Plaintiff's Motion for Extension of Time to Serve Defendant (Docket no. 15) is GRANTED. As a result, service of process on Defendant Price is deemed timely, despite being made past the original deadline of Rule 4(m).

It is so ORDERED.

SIGNED this 4th day of January, 2017.

A handwritten signature in black ink, appearing to read 'Xavier Rodriguez', is written over a horizontal line.

XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE